

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

BRANDON TURNER,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:08cv6
vs.	:	
	:	District Judge Susan J. Dlott
STATE OF OHIO,	:	
	:	
Respondent(s).	:	

ORDER

The Court has reviewed the Report and Recommendation of United States Magistrate Judge Tim Hogan filed on April 4, 2008(Doc. 5), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired April 24, 2008, hereby ADOPTS said Report and Recommendation.

Accordingly, the instant case is DISMISSED without prejudice to petitioner's refiling a habeas corpus petition that complies with this opinion.

A certificate of appealability will not issue in this case, which this Court has concluded will be dismissed on a procedural ground, because "jurists of reason would not find it debatable as to whether this Court is correct in its procedural ruling" under the first prong of the applicable two-part standard enunciated in *Slack v McDaniel*, 529 U.S. 473, 484-85 (2000).

The Court will certify pursuant to 28 U.S.C. § 1915 (a) that an appeal of any Order adopting this Report and Recommendation will not be taken in "good faith," and therefore,

DENIES petitioner leave to appeal *in forma pauperis* upon a showing of financial necessity. *See*

Fed. R. App. 24 (a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6<sup>th</sup> Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott

Susan J. Dlott  
United States District Judge

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